

STATE OF MICHIGAN

MACOMB COUNTY CIRCUIT COURT

SARMAD BRIKHO, CHOICE AUTOMOTIVE
GROUP, LLC, d/b/a CHASE AUTOMOTIVE
LEASING,

Plaintiffs,

vs.

Case No. 2014-3977-CB

SHANT SHIRINIAN, SHIRINIAN INVESTMENTS,
LLC, VAN 8 COLLISION, INC., GARY
CUNNINGHAM, and GARY H. CUNNINGHAM,
P.C.

Defendants.

OPINION AND ORDER

Plaintiff Sarmad Brikho has filed a motion for reconsideration of the Court's December 4, 2014 Order appointing a receiver over, and dissolving, Choice Automotive Group, LLC.

Standard of Review

Motions for reconsideration must be filed within 21 days of the challenged decision. MCR 2.119(F)(1). The moving party must demonstrate a palpable error by which the Court and the parties have been misled and show that a different disposition of the motion must result from correction of the error. MCR 2.119(F)(3). A motion for reconsideration which merely presents the same issue ruled upon by the Court, either expressly or by reasonable implication, will not be granted. *Id.* The purpose of MCR 2.119(F)(3) is to allow a trial court to immediately correct any obvious mistakes it may have made in ruling on a motion, which would otherwise be subject to correction on

appeal but at a much greater expense to the parties. *Bers v Bers*, 161 Mich App 457, 462; 411 NW2d 732 (1987). The grant or denial of a motion for reconsideration is a matter within the discretion of the trial court. *Cole v Ladbroke Racing Michigan, Inc*, 241 Mich App 1, 6-7; 614 NW2d 169 (2000).

Arguments and Analysis

After reviewing Plaintiff's instant motion, the Court is convinced that the motion must be denied. While Plaintiff is correct that its motion does not present the same issues as his original response, the issues presented could have been raised originally, but for unknown reasons were not. On a motion for reconsideration, a trial court has discretion to decline to consider new legal theories or evidence that could have been presented when the motion was initially decided. MCR 2.119(F)(3); *Woods v SLB Property Mgt LLC*, 277 Mich App 622, 629-630; 750 NW2d 228 (2008). The purpose of MCR 2.119(F) is to allow a trial court to immediately correct any obvious mistakes it may have made in ruling on a motion, which would otherwise be subject to correction on appeal but at a much greater expense to the parties. *Bers v Bers*, 161 Mich App 457, 462; 411 NW2d 732 (1987). Due to the fact that Plaintiff's motion raises issues which could have been raised in his original response, and the fact that it does not identify a palpable error committed by the Court, the Court is convinced that Plaintiff's motion must be denied.

Conclusion

Based upon the reasons set forth above, Plaintiff Sarmad Brikho's motion reconsideration of the Court's December 4, 2014 Order is DENIED. In compliance with MCR 2.602(A)(3), the Court states this Opinion and Order does not resolve the last claim and does not close the case.

IT IS SO ORDERED.

/s/ John C. Foster

JOHN C. FOSTER, Circuit Judge

Dated: January 7, 2015

Cc: *via e-mail only*

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